

REMARKS

In response to the restriction requirement that the Examiner imposed, Applicant elects the Group I invention (*i.e.*, claims 17-24) with traverse.

The Action applied an improper analysis for determining whether Groups I-III relate to a single inventive concept under PCT Rule 13.1. When the Office considers an application filed under 35 U.S.C. § 371, PCT Rule 13.1 and 13.2 should be followed when considering unity of invention of claims of different categories. MPEP § 1850. In applying PCT Rule 13.2, the Examiner should consider for unity of invention all the claims to different categories of invention in the application and permit retention in the same application for searching and/or preliminary examination, claims to the categories which meet the requirements of PCT Rule 13.2. MPEP § 1850. PCT Rule 13.2 no longer specifies the combinations of categories of invention that are considered to have unity of invention. MPEP § 1850. It appears, however, that the present restriction requirement is based in part on such a “categories of invention” analysis. The categories of invention in former PCT Rule 13.2 have been replaced with a statement describing the method for determining whether the requirement of unity of invention is satisfied. MPEP § 1850. Specifically, unity of invention exists when there is a technical relationship among the claimed inventions involving one or more special technical features. PCT Rule 13.2. The term “special technical features” is defined as meaning those technical features that define a contribution which each of the inventions considered as a whole, makes over the prior art. PCT Rule 13.2. The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim. PCT Rule 13.3.

Groups I-III relate to a single inventive concept under PCT Rule 13.1 because they possess the same technical feature as required by PCT Rule 13.2. The special technical feature

linking Groups I-III is a non-human transgenic animal of claim 17. The Group I claims are directed to the non-human transgenic animal itself; the Group II claims are directed to a screening assay system and validation system for a candidate for the treatment, prevention, and/or diagnosis of a tauopathy that uses the non-human transgenic animal of claim 17; and the Group III claims are directed to a method comprising assaying the efficacy of substances or therapies using the non-human transgenic animal of claim 17. The Action's assertion that the Group II method could be performed by assays other than those using the transgenic animal of claim 17 ignores the clear recitation in claim 25 of such an animal.

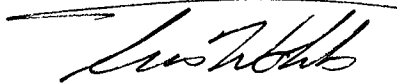
The Action presented no evidence or argument that the non-human transgenic animal of claim 17 does not define a contribution of the prior art. Thus, Groups I-III are linked by a special technical feature as required by PCT Rule 13.2.

In view of the above, Groups I-III fulfill the requirements of unity of invention and the restriction requirement should be withdrawn.

In response to the species elections that the Examiner imposed, Applicant elects germ cell and stably transfected. Claims 17-33 are generic to and read on the elected species. Applicant reserves the right to have claims to additional species considered upon the allowance of a generic claim.

The Examiner is invited to contact the undersigned attorney with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



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